

FILED
CHARLOTTE, N. C.

MAY 16 2006

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

DOCKET NO. 5:04CR67-3-V

U. S. DISTRICT COURT
W. DIST. OF N. C.

UNITED STATES OF AMERICA, }
 }
 }
v. }
 }
GREGORY ALLEN POWELL }

CONSENT ORDER

THIS MATTER is before the Court by consent of the United States of America, by and through Gretchen C. F. Shappert, United States Attorney for the Western District of North Carolina, and petitioners Billie Jo Powell and Fred Powell ("petitioners"), through counsel, pursuant to Fed. R. Crim. P. 32.2(c). The government and petitioners have consented to this order as a final adjudication and settlement of all matters with regard to the following properties (collectively, the "subject properties") covered by the preliminary order filed herein on December 21, 2005:

(a) real property located at 2215 Woodlawn Drive, Hudson, North Carolina, also known as Lots 69-76, Block E, Mt. Herman Heights, as more particularly described at Deed Book 1173, Page 0071, in the Caldwell County Public Registry; and

(b) one Smith and Wesson .357 caliber revolver.

The government and petitioners have stipulated and agreed and the Court finds as follows:

1. Petitioners have filed a timely petition in response to the preliminary order, and the Court has jurisdiction over the subject properties. Petitioners have asserted no claim to the revolver, and it appears from the record that no other person has filed a petition with regard to the revolver within the time permitted by law.
2. Defendant Gregory Allen Powell ("defendant") has or had a legal ownership interest in the subject properties that is subject to forfeiture under the applicable statutes.
3. The sum of \$25,000 has been tendered to the government as a substitute res for the subject real property located at 2215 Woodlawn Drive, Hudson (hereinafter "Woodlawn Drive") and shall represent the forfeitable interest of defendant in Woodlawn. All right, title and interest in this \$25,000 is therefore subject to forfeiture to the United States. Accordingly, the preliminary order is hereby amended by deleting Woodlawn Drive, and the government's claim to that property shall be dismissed. The preliminary order is further amended by adding the sum of \$25,000 in lieu of Woodlawn Drive, and forfeiture of this \$25,000, together with the Smith and Wesson revolver, is confirmed as final.
4. Petitioners hereby release and forever discharge the United States, its agents, servants and employees, its successors or assigns, and all state or local governmental entities or law enforcement agencies in North Carolina

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and their agents, servants and employees, their heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands whatsoever in law or equity which petitioners or their heirs, successors, or assigns ever had, now have, or may have in the future in connection with this investigation, seizure, detention, and forfeiture.

IT IS THEREFORE ORDERED:

1. All right, title and interest in the sum of \$25,000 and the Smith and Wesson .357 caliber revolver is forfeited to the United States for disposition according to law.
2. The preliminary order is hereby amended by deleting Woodlawn Drive ; and the government's forfeiture claim to Woodlawn Drive is hereby dismissed with prejudice.
3. Each party shall bear its own costs, including attorneys fees.

Signed this the 16th day of May, 2006.


RICHARD L. VOORHEES
UNITED STATES DISTRICT JUDGE

ON MOTION OF AND BY CONSENT OF THE PARTIES:
FOR THE UNITED STATES OF AMERICA:

GRETCHEN C. F. SHAPPERT
United States Attorney

By WILLIAM A. BRAFFORD
WILLIAM A. BRAFFORD
Assistant United States Attorney

Date: May 11, 2006

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BILLIE JO POWELL
Date: 4-19-06

Fred Powell
FRED POWELL
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